

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #3, INC. FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY)	CASE NO.
TO CONSTRUCT A CELL SITE OFF HIGHWAY 973, ON)	96-033
BRADLEY LANDING ROAD, SOUTHWEST OF DUNMOOR,)	
LOGAN COUNTY, KENTUCKY (LAKE MALONE SITE))	

O R D E R

On February 21, 1996, Kentucky RSA #3, Inc. filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 3 ("RSA No. 3"). RSA No. 3 includes Allen, Breckinridge, Butler, Edmonson, Grayson, Hancock, Logan, McLean, Meade, Muhlenberg, Ohio, Simpson, Todd, and Warren counties. Kentucky RSA #3, Inc. has requested authorization to construct a cell site in Logan County. Kentucky RSA #3, Inc. was previously granted authority to operate a cellular radio telecommunications system in RSA No. 3 in Case No. 93-118.¹

The proposed cell site consists of a 300-foot or less guyed antenna tower to be located off Highway 973, on Bradley Landing Road, southwest of Dunmoor, Logan County, Kentucky ("the Lake Malone cell site"). The coordinates for the Lake Malone cell site are North Latitude 37° 03' 58" by West Longitude 87° 00' 55".

¹ Case No. 93-118, The Joint Application of Telephone and Data Systems, Inc., United States Cellular Corporation and Tsaconas Cellular, Inc. For Approval of the Acquisition of Tsaconas Cellular, Inc. by Telephone and Data Systems, Inc. and the Transfer to United States Cellular Corporation.

Kentucky RSA #3, Inc. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Lake Malone cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Lake Malone cell site's construction is exempt from local zoning ordinances; however, Kentucky RSA #3, Inc. notified the Logan County Judge/Executive of the pending construction. Kentucky RSA #3, Inc. has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Lake Malone cell site. Both applications are pending.

Kentucky RSA #3, Inc. has filed a notice verifying that each person who owns property or who resides within 500 feet of the Lake Malone cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after Kentucky RSA #3, Inc.'s application was filed. To date, no comments or intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility

subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Kentucky RSA #3, Inc. should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Kentucky RSA #3, Inc.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky RSA #3, Inc. should be granted a Certificate of Public Convenience and Necessity to construct and operate the Lake Malone cell site in RSA No. 3 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Kentucky RSA #3, Inc. be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Lake Malone cell site.

2. Kentucky RSA #3, Inc. shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

3. Kentucky RSA #3, Inc. shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 3rd day of April, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

Ed J. [Signature]
Vice Chairman

Robert M. Davis
Commissioner

ATTEST:

Don Mills
Executive Director